

7
an inner sole mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having upper surfaces which together form an upper surface for engagement by the foot;

said resilient sections being directly adjacent one another to form said grid;

said upper surface of said sections being of soft resilient material and being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user;

said grid pattern of resilient sections constituting a multiplicity of sections that sway laterally independently of one another in response to forces applied by the foot, thereby reducing shear stresses on the bottom of a foot as the user walks along. and

said sections having a height and a transverse extent, with the height being substantially equal to or greater than said transverse extent.

REMARKS

Initially it is noted that a Request for Continued Examination (RCE) together with the required fees is hereby filed.

Concerning the claim limitations, it is noted that the following passage is included in all of the Reissue claims, including those presented by the present amendment:

“said grid pattern of resilient sections constituting a multiplicity of sections that sway laterally independently of one another in response to forces applied by the foot, thereby reducing shear stresses on the bottom of the foot as the user walks along.”

This limitation substantially paraphrases the language of the specification of U.S. Patent No. 5,761,834, the parent patent, at Col. 13, lines 12 – 20.

In addition, with this language in claims 48 and 49, in the Advisory Action mailed September 18, 2002, the following statement was included:

“Proposed amended claims 48 and 49 if filed separately would be allowable over the prior art.”

Now that this limitation has been included in all of the independent Reissue claims now present in this application, it is respectfully suggested that all of these claims should be considered allowable.

In this regard, attention is respectfully directed to the Declarations of Tracy Grim previously presented in this case, and to the significant advantages achieved by the present invention, particularly with respect to foot ulcers of diabetic patients.

Regarding new claims 50 – 58, they include independent claims 50, 57 and 58. Each of these three claims include the limitation discussed and quoted hereinabove, and other claim limitations involving the footgear, and the grid pattern of the sections, thereby clearly distinguishing from the prior art.

Concerning one claim limitations included in certain claims, this involve the height of the sections or elements being “substantially equal to or greater than the lateral or transverse extent of the elements. In this regard, attention is directed to the specification and drawings of the application taken as a whole. These include the following:

1. At Col. 3, line 3, the specification states that “the removable sections may have various heights...”.
2. In Fig. 3 of the drawings the height of the sections is shown equal to their lateral extent.
3. In Fig. 6 of the drawings, some of the sections have a height slightly less than their lateral extent.
4. In Fig. 12 of the drawings some of the sections have a height substantially equal to, and some greater than, the lateral extent of the sections.
5. In Fig. 14, some of the sections have a height about equal to the lateral extent.
6. In Fig. 25 of the drawings, some of the sections have a height slightly less than the lateral extent of the sections.
7. In the isometric showing of Fig. 26, the sections have a height substantially less than the corner-to-corner lateral extent of the sections.
8. Col. 13, line 32 states that “larger or smaller removable sections could be employed.
9. Col. 13, lines 33, 34 the specification states that “In the preferred embodiment the removable sections are resilient and each has a height that is greater than its width and depth”.

Regarding this statement, note that it refers to the preferred embodiment, and not that the invention does not encompass all of the showings where the height is about equal to, or slightly less than, the lateral or transverse extent of the sections.

Accordingly from the foregoing analysis, it is considered clear that the specification and drawings clearly support the limitation that the height of the sections is substantially equal to or greater than their lateral extent.

Turning now to procedural aspects of the situation, and an allowable set of claims is established, the necessary Declarations will be submitted.

The Commissioner is hereby authorized to charge any additional filing fees under 37 C.F.R. § 1.16, or application processing fees under 37 C.F.R. § 1.17, which may be required now or during the pendency of this application, or credit any overpayment to Account No. 16-2230. A duplicate copy of this sheet is enclosed.

In closing we wish to thank Examiner Patterson for the interviews which were courteously granted, and for the thorough consideration she has given this application.

Respectfully submitted,



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